

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CARL WAYNE NUNLEY,

Plaintiff,

vs.

NANCY A. BERRYHILL,¹

Acting Commissioner of Social Security,

Defendant.

No. 15-CV-0270-FVS

ORDER ADOPTING REPORT AND
RECOMMENDATION TO GRANT
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AND
DENY DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT

ECF Nos. 12, 17, 21

¹ Nancy A. Berryhill became the Acting Commissioner of Social Security on January 20, 2017. Pursuant to Rule 25(d) of the Rules of Civil Procedure, Nancy A. Berryhill is substituted for Carolyn W. Colvin as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of 42 U.S.C. § 405(g).

ORDER ADOPTING REPORT AND RECOMMENDATION TO GRANT
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND DENY
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT ~ 1

1 **BEFORE THE COURT** is the Report and Recommendation issued by
2 Magistrate Judge Mary K. Dimke on January 10, 2017, ECF No. 21,
3 recommending Plaintiff's Motion for Summary Judgment, ECF No. 12, be granted
4 and Defendant's Motion for Summary Judgment, ECF No. 17, be denied.
5 Defendant filed objections to the Report and Recommendation on January 19,
6 2017. ECF No. 22. Plaintiff responded to Defendant's objections on February 1,
7 2017. ECF No. 24.

8 After reviewing the Report and Recommendation, the objections and the response,
9 and relevant authorities; the Court finds the Magistrate Judge's findings are
10 correct. Therefore, the Court adopts the Report and Recommendation in its
11 entirety. Accordingly, **IT IS ORDERED:**

12 1. The Report and Recommendation, **ECF No. 21**, is **ADOPTED** in its
13 entirety.

14 2. Plaintiff's Motion for Summary Judgment, **ECF No. 12**, is
15 **GRANTED**.

16 3. Defendant's Motion for Summary Judgment, **ECF No. 17**, is **DENIED**.

17 4. An application for attorney fees may be filed by separate motion.

18 The District Court Executive is directed to file this Order and forward copies
19 to the parties. Judgment shall be entered for Plaintiff and the file shall be **CLOSED**.

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ORDER ADOPTING REPORT AND RECOMMENDATION TO GRANT
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND DENY
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT ~ 2

1 DATED February 9, 2017.

2 s/Fred Van Sickle

3 Fred Van Sickle

4 Senior United States District Judge

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~ - ORDER ADOPTING REPORT AND RECOMMENDATION TO GRANT
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND DENY
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT ~ 3